

VILLAGE OF WASHINGTONVILLE

LOCAL LAW NO. 3 of 2023

A LOCAL LAW ENTITLED “A LOCAL LAW PROHIBITING SMOKING ON VILLAGE-OWNED PROPERTY”

Be it enacted by the Village Board of the Village of Washingtonville, County of Orange, State of New York as follows:

Section 1. Title

This Local Law shall be referred to as “A LOCAL LAW PROHIBITING SMOKING ON VILLAGE-OWNED PROPERTY.”

Section 2. Authority

This Local Law is enacted pursuant to Section 10 of the New York State Municipal Home Rule Law.

Section 3. Legislative Findings

- A. The Village Board of the Village of Washingtonville is cognizant of the increasing public awareness of the dangers that smoking tobacco products, cannabis, e-cigarettes and other vaping products and adverse impacts on the health and well-being of the general public.
- B. The Village Board finds it is in the best interest of the Village and its residents to do all it can to protect the Village’s property from the dangers and risks of fire posed by discarded tobacco, cannabis, and vaping products, as well as the impacts of unsightly litter caused by same.
- C. The Village Board desires to adopt this Local Law, the primary purpose of which is to ban all smoking and vaping on Village-owned property, except in specific designated areas.
- D. The Village Board further recognizes that the Clean Indoor Air Act, adopted by the New York State Legislature as Public Health Law, Article 13-E, § 1399-n *et seq.*, already effectively prohibits smoking and vaping in almost all public and private indoor workplaces, as well as numerous specified outdoor areas. The Clean Indoor Air Act, however, allows local municipalities to adopt and enforce local laws regulating smoking and vaping, as long as any such local law is at least as strict as the State Law. Accordingly, this Local Law is enacted to enhance the prohibitions of the Clean Indoor Air Act as it pertains to property in the Village of Washingtonville.
- E. The Village Board desires to re-format Chapter 125 of the Village Code (“Parks and

Public Areas”) and to incorporate provisions prohibiting smoking in parks and public areas so that such provisions may be enforced by Village officials and to amend Chapter 34 of the Village Code to update such administrative chapter to reflect the prohibition on smoking in Village facilities.

Section 4. Enactments

The Village hereby repeals and replaces Chapter 125 of the Village Code to read as follows:

§ 125-1 Legislative intent; applicability.

- A. It is the purpose of this chapter to help preserve and maintain the clean and wholesome character of village parks and green areas by establishing regulations governing activity in these Village lands.
- B. The provisions of this chapter shall apply to all Village property.

§ 125-2 Definitions.

For this chapter, the following terms shall have the meanings indicated:

DUSK

Twenty minutes before sunrise and/or 20 minutes after sunset.

GREEN AREAS

Those areas designated as “green areas” on the subdivision maps of the Village of Washingtonville, New York.

PARKS

Park, reservation, playground, recreation center or any other public areas in the village owned and operated by the village and devoted to active or passive recreation.

PERSON

Any person, firm, partnership, corporation, association or legal entity acting individually, jointly or in a representative capacity.

PUBLIC PLACES, PUBLIC LANDS

Includes but are not limited to streets, highways, alleys, sidewalks, drives or parking lots located within the Village of Washingtonville, New York.

SMOKE

Principally, but not exclusively, meaning the use, ignition, and/ or consumption of tobacco products, cannabis, e-cigarettes and other vaping products.

VILLAGE

The Village of Washingtonville, New York.

VILLAGE PROPERTY

All lands, buildings, Village garage, Sewer and Water Department property, parks, parking facilities and/or any other property owned by the Village of Washingtonville, New York.

§ 125-3 The following activities are hereby prohibited and no person shall:

- A. Injure, deface, disturb, befoul or in any manner destroy or cause to be destroyed any part of any park or green area or any facility, building, sign, structure, equipment, utility or other property found therein.
- B. Dig, remove, injure, mark or destroy any tree, shrub, plant or growing thing or any rock, mineral, artifact or other material within the boundaries of any park or green area.
- C. Deposit or abandon in any park or green area any garbage, litter, sewerage, refuse, ashes, trash, waste, grass clippings, branches, shrubbery or other large or obnoxious waste material.
- D. Kindle, build, maintain or in any way use a fire in a park or green area, except in fireplaces provided or in self-supporting barbecue grills or stoves in places designated as picnic areas or by special permit. Any permissible fire shall be continuously under the care and direction of a competent person 18 years of age or older from the time it is kindled until it is extinguished, and no fire shall be built within ten (10) feet of any tree or building or beneath the branches of any tree or in any underbrush.
- E. Possess any alcoholic beverages or illegal drugs within Village parks and green areas.
- F. Allow a domestic animal to run at large in a Village park or green area. All domestic animals in said areas shall be restrained on adequate leashes or under supervision by their owners.
- G. Allow a dog owned or under the charge of such person to soil, defile, defecate on or commit any nuisance in any park or green area, unless:
 - 1. The person immediately removes all feces deposited by such dog by any sanitary method.
 - 2. The feces removed from the aforementioned designated area shall be disposed of in a sanitary manner by the person owning, harboring, keeping or in charge of any dog curbed in accordance with the provisions of this section.
- H. Have in his possession or control any rifle, shotgun, pistol or other firearm, slingshot, pellet gun, air rifle, fireworks, explosives, knife, bludgeon or other dangerous weapons within the boundaries of any park or green area, provided that this rule shall not apply to any law enforcement officer who has been duly appointed by the government of the United States, the State of New York or any government entity.
- I. Operate or have in his/her possession within any park or green area any off-the-road motor-driven vehicles, including but not limited to any minibike, motorcycle, dune-mobile, snowmobile, all-terrain vehicle, amphibious vehicle or similar motorized device.
- J. Park any motorized vehicle in any area not designated for such parking. Any vehicle parking or standing on any park or green area parking lot in violation of this chapter shall be

deemed a nuisance and a menace to the safe and proper regulation of traffic. The Chief of Police may provide for the removal of such vehicle and payment by the owner of the reasonable costs of the removal.

- K. Organize, conduct or participate in any field day, carnival, concert, address, rally, domestic presentation or the like at which more than 18 persons are in attendance (hereafter called "large group events") in a park or green area unless a permit for such event has first been granted by the Board of Trustees.
- L. Violate the terms and conditions of any event permit for a large group event permit or permit the violation of any such permit by all persons involved in the presentation of the event. Permit holders shall observe the terms and conditions of the permit when issued and will comply with requests of the Board of Trustees and police concerning traffic, arrangements, alcoholic beverages, noise, crowd control measures and the use of village facilities.
- M. Use Village-owned property or any parklands or green areas for business or professional purposes involving the sale of any goods or the rendering of any service for a fee or for the purposes of soliciting alms or contributions unless authorized to do so by the Board of Trustees.
- N. Post, distribute, cast or leave about any bills, placards, tickets, handbills, circulars or advertisements in any form for advertising purposes directly in or in the immediate vicinity of any park or green area unless duly authorized by the Board of Trustees.
- O. Be present or occupy any park or green area during any hours in which a park or green area is not open to the public unless written permission has been previously obtained from the Board of Trustees. Unless otherwise specifically posted or during special events approved by the Village, all parks or green areas are closed during the hours from dusk to sunrise.
- P. Fail to comply with any posted rule or regulation in any park, green area or Village property.
- Q. Commit any act in violation of any laws of the State of New York or the Village while within the confines of any park or green area or upon Village property.
- R. Smoke in or upon any Village park, green area or Village property.

§ 125-4 Penalties for offenses.

- A. Any person who is convicted of or pleads guilty to violating any provision of this chapter shall be subject to a fine as set forth below:
 - (1) First conviction: not to exceed \$100.
 - (2) Second conviction: not to exceed \$200.
 - (3) Third conviction: not to exceed \$300.

- (4) Fourth conviction: not to exceed \$400.
 - (5) Each succeeding conviction after the fourth conviction: not to exceed \$100. for each conviction.
- B. For purposes of this section, a plea of guilty shall be deemed equivalent to a conviction.

§ 125-5 Enforcement.

The provisions of this Chapter may be enforced by any law enforcement officer of the Village Police Department, the New York State Police or the Orange County Sheriff's Department; the Village Building Inspector; or any other Village employee or official designated by resolution of the Board of Trustees to enforce the provisions established by this chapter.

§ 125-6 Appearance tickets.

In addition to any other method of enforcement, appearance tickets may be issued pursuant to Article 150 of the Criminal Procedure Law for any violation of this chapter and shall be made returnable to the Village of Washingtonville Justice Court. The Justice Court may, in its discretion, permit a plea by mail in a form satisfactory to the Justice Court.

§ 125-7 Improvement projects.

Any person or community group that wishes to commence or conduct an improvement project or maintain any Village park or green area shall petition the Village Board for a permit. No improvement project or private maintenance program can be conducted without a permit and must be performed in compliance with the terms and conditions of the permit.

§ 125-8 Permit application procedures.

- A. Applications for permits required by this chapter shall be submitted to the Village Clerk in writing and shall:
 - (1) State the name, address and telephone number of the applicant.
 - (2) Describe the proposed request and the reasons for the request.
 - (3) State all relevant information the Board may need for a proper determination of the permit application.
- B. The Board of Trustees may establish rules for the issuance of permits and may delegate the authority for the issuance of permits to a Village officer or employee.
- C. The Board of Trustees may establish a permit fee to be prescribed in the schedule of fees adopted by resolution of the Board of Trustees. The Village Board of Trustees may establish liability insurance requirements and a permit fee by resolution from time to time.

§ 125-9 Exemptions.

The Board of Trustees may grant an exemption to any of the provisions of this chapter upon receipt of a written request, in advance, setting forth the exemption sought and the basis for the exemption. The Board may grant an exception if it determines such exemption is not contrary to the public interest and is not detrimental to the health, safety and welfare of the public. In granting any exemption, the Board may establish adequate conditions in order to eliminate or reduce any expenses or adverse effects.

§ 125-10 Effect upon other laws.

This chapter shall in no way limit or alter any restriction upon smoking imposed by any other law of the State of New York.

§ 125-11 Conflict with other laws.

Where this Local Law differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the County, State or Federal government, the more restrictive or protective of the Village and the public shall apply.

Section 5. Amendments to Village Code, Chapter 34 (Smoking Policy)

Section 34-1 is amended to read as follows:

§ 34-1 Prohibited acts.

- A. Smoking is prohibited throughout all village facilities except in designated areas if identified by "SMOKING PERMITTED" signs.
- B. No smoking is permitted in an interior workplace by any Village workplace.
- C. Smoking is also prohibited in all municipal vehicles at all times.

Section 34-2 ("Smoking Room") is hereby repealed.

Section 34-3 (Nonsmoking areas") is hereby repealed.

Section 34-4 ("Conflicts; complaints") is renumbered § 34-2

Section 34-5 ("Violation of Policy; penalties for offenses") is renumbered § 34-3

Section 34-6 ("Posting and distribution of copies") is renumbered § 34-4

Section 34-7 ("Enforcement Agent") is renumbered § 34-5

Section 34-8 ("Amendments") is renumbered 34-6

Section 34-9 (“Regulations for specific locations”) is hereby repealed and replaced with the following Section 34-7.

§ 34-7 Applicability of Chapter 125 (Parks and Public Places).

The definitions contained in Chapter 125 of the Village Code shall be applicable and have the same meanings when used in this Chapter. All Village employees and officers shall be subject to the provisions of Section 125-3(R) prohibiting smoking in and upon parks, green areas and Village property.

Section 6. Severability

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or any application thereof to any person or circumstance, is declared void, unconstitutional or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Law, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

Section 7. SEQRA

Pursuant to 6 NYCRR 617.5 (26) and (33), this Local Law is classified as a Type II action which requires no further review under the State Environmental Quality Review Act.

Section 8. Code Preparation

The Village’s Code preparation contractor is authorized, without further action of the Village Board, to correct typographical errors, numbering and other related technical changes that do not affect or alter the substantive provisions of this local law.

Section 9. Effective Date

This Local Law shall become effective upon filing with the New York State Secretary of State.

